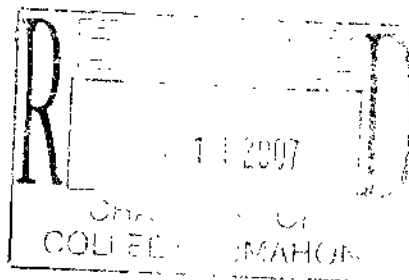


GERSTEN SAVAGE LLP

600 LEXINGTON AVENUE
NEW YORK NY 10022-6018
T: 212-752-9700
F: 212-980-5192
INFO@GERSTENSAVAGE.COM
WWW.GERSTENSAVAGE.COM

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>10/11/07</u>



October 8, 2007

Hon. Colleen McMahon
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 640
New York, New York 10007

Attn: Jim O'Neil

MEMO ENDORSED

*Place on Suspended
check status
get 1/6 moved*

Re: Merit Capital Group, LLC v. Trio Industries Management, LLC,
Trio Industries Holdings, LLC and Robert E. Gyemant; No. 04 CV 7690 (RCC)

Dear Judge McMahon:

We represent the Plaintiff in the above-referenced matter. In accordance with Your Honor's instructions, please accept this letter as a brief summary of our understanding of the procedural status of this matter. In or about early April, 2007 we were informed that Robert E. Gyemant, the individually named defendant, had filed for protection under Chapter 7 in the Northern District of Texas thereby staying the instant suit. By Order dated May 1, 2007, the application of David Frydman to be relieved as counsel for all of the defendants was granted (a copy of said Order is enclosed herewith for your review). Furthermore, it was Ordered that the corporate defendants were to inform the Court on or before May 18, 2007 whether they intended to proceed with their respective defenses. To date, said corporate defendants have failed to appear or to respond to the Court's Order. We have since discovered that the corporate defendants have ceased all operations and lack assets sufficient to satisfy any judgment. It is for each of the aforesaid reasons - and in light of the stay imposed by virtue of Gyemant's bankruptcy filing - that the Plaintiff has not yet moved for entry of a default judgment. We hope that this addresses the Court's concerns and please contact us with any additional questions or comments you may have.

Sincerely,

David Lackowitz

cc: David Frydman

10/11/07

I realize the action stayed, that at some point I will require you to proceed against the corporate defendants, as I will discuss your claims for failure to prosecute them.